
STATUTORY INSTRUMENTS

2008 No. 3022

LOCAL GOVERNMENT, ENGLAND

FINANCE

The Local Government (Structural
Changes) (Finance) Regulations 2008

Made - - - - 20th November 2008
Laid before Parliament 26th November 2008
Coming into force - - 24th December 2008

The Secretary of State, in exercise of the powers conferred by sections 14 and 240(10) of the Local Government and Public Involvement in Health Act 2007⁽¹⁾, makes the following Regulations:

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government (Structural Changes) (Finance) Regulations 2008.

(2) These Regulations shall come into force on 24th December 2008.

Interpretation

2. In these Regulations—

“the 1988 Act” means the Local Government Finance Act 1988⁽²⁾;

“the 1992 Act” means the Local Government Finance Act 1992⁽³⁾;

“the 2007 Act” means the Local Government and Public Involvement in Health Act 2007;

“financial year” means any period of twelve months beginning with 1st April;

⁽¹⁾ 2007 c.28. Section 14(2) provides for subsection (1) to be read with section 15.

⁽²⁾ 1988 c.41.

⁽³⁾ 1992 c.14.

“first transitional period”, in relation to a preparing council, means the period defined as such in the order which confers functions on the authority;

“first year” means the financial year beginning on the reorganisation date;

“Implementation Executive” means a committee of a preparing council’s executive established in pursuance of an order;

“order” means an order under section 7 of the 2007 Act;

“preceding year” means the financial year preceding the first year;

“preparing council” means a local authority which, in accordance with an order, becomes a single-tier council on the reorganisation date;

“relevant authority”, in relation to a reorganised area, means the preparing council or the shadow council (as the case may be);

“relevant period”, in relation to a reorganised area, means the period which—

- (a) begins at the start of the transitional period or the shadow period (as the case may be), and
- (b) ends immediately before the reorganisation date;

“reorganisation date”, in relation to an order, means the date specified in the order as that on which a structural change comes into effect;

“reorganised area” means any area which, in accordance with an order, becomes a single-tier area on the reorganisation date⁽⁴⁾;

“second transitional period”, in relation to a preparing council, means the period defined as such in the order which confers functions on the authority;

“second year” means the financial year following the first year, “third year” means the financial year following the second year, and so on;

“shadow council” means an authority (not being a local authority) which in accordance with an order becomes a local authority on the reorganisation date;

“shadow executive”, in relation to a shadow council, means the executive created by the council in accordance with an order;

“shadow period”, in relation to a shadow council, means the period defined as such in the order which confers functions on the authority;

“single-tier council” means a local authority which on and after the reorganisation date is the sole principal authority for an area;

“transitional period” in relation to a preparing council, means the period defined as such in the order which confers functions on the authority; and

“valuation list” means a list compiled and maintained for a billing authority⁽⁵⁾ under Chapter 2 of Part 1 of the 1992 Act.

PART 2

RESPONSIBILITY FOR FUNCTIONS

Responsibility for functions exercised by a shadow council

3.—(1) Any function under the 1988 Act which is exercised by a shadow council by virtue of these Regulations shall be the responsibility of the shadow executive.

(4) As to an area which is “single-tier”, see section 23(2)(a) of the 2007 Act.

(5) The term “billing authority” is defined in section 1(2) of the 1992 Act.

(2) Subject to paragraph (3), any function exercised by a shadow council under Part 4 of these Regulations shall be the responsibility of the authority.

(3) In connection with the exercise of the function of making a calculation (whether originally or by way of substitute) in accordance with—

- (a) any of sections 32 to 37, 52I and 52T(6) of the 1992 Act,
- (b) any of those sections as modified by these Regulations, or
- (c) Part 4 of these Regulations,

the actions specified in paragraph (4) shall be the responsibility of the shadow executive.

(4) The actions are—

- (a) the preparation, for submission to the authority for their consideration, of—
 - (i) estimates of any amounts aggregated in making the calculation (whether originally or by way of substitution),
 - (ii) estimates of other amounts to be used for the purposes of the calculation, and
 - (iii) estimates of the calculation;
- (b) the reconsideration of those estimates in accordance with the authority's requirements; and
- (c) the submission for the authority's consideration of revised estimates.

Responsibility for functions exercised by a preparing council

4.—(1) Any function under the 1988 Act which is exercised by a preparing council by virtue of these Regulations shall be the responsibility of the relevant executive.

(2) Subject to paragraph (3), any function exercised by a preparing council under Part 4 of these Regulations shall be the responsibility of the authority.

(3) Notwithstanding any contrary provision in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(7), in connection with the exercise of the function of making a calculation (whether originally or by way of substitute) in accordance with—

- (a) any of sections 32 to 37, 52I and 52T of the 1992 Act,
- (b) any of those sections as modified by these Regulations, or
- (c) Part 4 these Regulations,

the actions specified in paragraph (4) shall be the responsibility of the relevant executive.

(4) The actions are—

- (a) the preparation, for submission to the authority for their consideration, of—
 - (i) estimates of any amounts aggregated in making the calculation (whether originally or by way of substitution),
 - (ii) estimates of other amounts to be used for the purposes of the calculation, and
 - (iii) estimates of the calculation;
- (b) the reconsideration of those estimates in accordance with the authority's requirements; and
- (c) the submission for the authority's consideration of revised estimates.

(5) In this regulation “relevant executive” means—

- (a) the Implementation Executive; or

(6) Sections 52I and 52T were inserted into the 1992 Act by paragraph 1 of Schedule 1 to the Local Government Act 1999 (c.27).
(7) S.I. 2000/2853, to which there are amendments not relevant to these Regulations.

- (b) where an order specifies a first and a second transitional period in relation to a preparing council—
 - (i) the Implementation Executive during the first transitional period, and
 - (ii) the executive of the preparing council during the second transitional period.

Procedure for exercise by preparing councils of certain functions relating to council tax

5. Schedule 1 (which specifies a procedure for the exercise of certain functions relating to council tax where regulation 4(3) applies) has effect.

PART 3

EXERCISE OF FUNCTIONS UNDER THE LOCAL GOVERNMENT FINANCE ACTS 1988 AND 1992

Interpretation

6. In this Part—

“local rating list” means a list compiled and maintained for a billing authority⁽⁸⁾ under Part 3 of the 1988 Act;

“relevant list” means—

- (a) a local rating list, or
- (b) a valuation list; and

“relevant officer”, in relation to a billing authority, means—

- (a) in relation to a local rating list, the valuation officer appointed for the authority under section 61(1)(a) of the 1988 Act⁽⁹⁾; and
- (b) in relation to a valuation list, the listing officer appointed for the authority under section 20(1) of the 1992 Act.

Certain county councils to be billing authorities

7.—(1) Paragraph (2) applies where the functions of district councils in relation to any area are transferred to a council for a county consisting of that area otherwise than by way of an order under Chapter 1 of Part 1 of the 2007 Act.

(2) The county council—

- (a) shall, for any financial year beginning at the same time as or after that transfer, be a billing authority for the purposes of Part 1 of the 1992 Act in relation to the area;
- (b) shall not, for any such year, be a major precepting authority⁽¹⁰⁾ for those purposes.

Exercise of functions

8. In relation to a reorganised area—

- (a) during the relevant period—

⁽⁸⁾ The term “billing authority” is defined in section 144(2) of the 1988 Act, which section was substituted by paragraph 81 of Schedule 13 to the 1992 Act.

⁽⁹⁾ Section 61(1)(a) was amended by paragraph 69 of Schedule 13 to the 1992 Act.

⁽¹⁰⁾ The term “major precepting authority” is defined in section 39(1) of the 1992 Act.

- (i) Part 3 (non-domestic rating) of the 1988 Act, and
 - (ii) Part 1 (council tax: England and Wales) of the 1992 Act,
- shall apply in relation to the first year as if the relevant authority were the billing authority for the reorganised area; and
- (b) on and after the reorganisation date those Parts shall apply in relation to any financial year before the first year as if the single-tier council were the billing authority for that area.

Continuity of functions

- 9.** In relation to a reorganised area, anything done before the reorganisation date—
- (a) under Part 3 of the 1988 Act, or
 - (b) under Part 1 of the 1992 Act,

by or in relation to a billing authority shall on and after that date be treated as if it had been done by or in relation to the single-tier council.

Relevant lists

10.—(1) Subject to regulation 11, on and after the reorganisation date the appropriate lists taken as a whole shall constitute (as the case may be)—

- (a) the single-tier council's local rating list, or
 - (b) the single-tier council's valuation list.
- (2) For the purposes of paragraph (1), an appropriate list—
- (a) in relation to the single-tier council's local rating list, is a local rating list insofar as the list shows hereditaments situated in the reorganised area; and
 - (b) in relation to the single-tier council's valuation list, is a valuation list insofar as the list shows dwellings situated in the reorganised area.

Amalgamation of relevant lists

11.—(1) At any time after the reorganisation date a single-tier council's relevant officer may amalgamate a relevant list into a single document.

(2) An amalgamated list must include the information which immediately before the amalgamation is in the relevant list, but only insofar as that information is still relevant to the reorganised area.

- (3) As soon as it is compiled an amalgamated list shall be (as the case may be)—
- (a) the single-tier council's local rating list, or
 - (b) the single tier council's valuation list.
- (4) As soon as reasonably practicable after compiling an amalgamated list, the relevant officer must send a copy of the list to the council.
- (5) As soon as reasonably practicable after receiving the amalgamated list, the council must—
- (a) deposit the list at its principal office, and
 - (b) take such steps as it thinks most suitable for giving notice of it.

PART 4
EQUALISATION OF COUNCIL TAX
CHAPTER 1
INTERPRETATION

Interpretation

12.—(1) In this Part—

“appropriate authority”, in relation to a reorganised area, means—

- (a) the relevant authority during the relevant period, or
- (b) the single-tier council on and after the reorganisation date;

“basic amount of council tax”, in relation to a part of an appropriate authority’s area and a financial year, means the amount of that authority’s council tax which will be payable for that year in respect of a dwelling which—

- (a) is situated in that part, and
- (b) is listed in valuation band D;

“the Council Tax Base Regulations” means the Local Authorities (Calculation of Council Tax Base) Regulations 1992⁽¹¹⁾;

“dwelling” has the same meaning as in section 3 (meaning of “dwelling”) of the 1992 Act;

“preceding year council tax”, in relation to a predecessor area, means the amount calculated under section 33(1) (basic amount of council tax) of the 1992 Act for the area for the preceding year⁽¹²⁾;

“predecessor area”, in relation to a reorganised area, means any district which is abolished by or in consequence of an order;

“principal area”, in relation to a reorganised area, means—

- (a) in relation to the first year, the predecessor area which had the highest preceding year council tax,
- (b) in relation to any financial year after the first year—
 - (i) the area referred to in paragraph (a), and
 - (ii) any other predecessor area for which the appropriate authority’s basic amount of council tax for an earlier financial year was calculated—
 - (aa) under regulation 20(2)(a),
 - (bb) under regulation 21 in such a way that the basic amount of council tax for the area is more than the higher amount by an amount equal to the aggregate of the special items that relate to the area, or
 - (cc) under regulation 22 in such a way that the amount calculated by applying the formula in paragraph (6) of that regulation is equal to the higher amount;

“special item” means an item mentioned in section 35(1) (special items for the purpose of section 34) of the 1992 Act; and

⁽¹¹⁾ S.I. 1992/612; relevant amending instruments are S.I. 1992/2943, 1999/3437 and 2003/3012.

⁽¹²⁾ Section 33(1) was amended by paragraph 5 of Schedule 12 to the Local Government (Wales) Act 1994, S.I. 1994/246, S.I. 1995/234 and in relation to the financial year beginning on 1st April 2008 by S.I. 2008/227.

“uniform amount of council tax”, in relation to a reorganised area and a financial year, means the amount calculated for the area and the year under section 33(1) of the 1992 Act as modified by paragraph 2 of Schedule 2 to these Regulations.

(2) The reference in the definition of “basic amount of council tax” in paragraph (1) to a dwelling listed in valuation band D is a reference to a dwelling to which that valuation band is shown as applicable in the appropriate authority’s valuation list.

(3) Any calculation of a council tax base by an appropriate authority under this Part for any part of its area must be made in accordance with the Council Tax Base Regulations as modified by paragraphs 11 to 13 of Schedule 2 to these Regulations.

Definition of “higher amount”

13.—(1) In this Part, “higher amount”, in relation to a reorganised area and a financial year, means—

- (a) if no special items relate to any part of the principal area, the basic amount of council tax calculated for the principal area and the year under regulation 17;
- (b) if one or more special items relate to the whole of the principal area, the basic amount of council tax calculated for the principal area and the year under regulation 17 less the aggregate of those special items;
- (c) if one or more special items relate to a part only of the principal area, the amount calculated for the year by applying the formula in paragraph (2).

(2) The formula is—

$$\frac{(A - B)}{C}$$

where—

A is the aggregate of the amounts calculated by applying the formula in paragraph (3);

B is the aggregate of the special items which relate to the principal area; and

C is the amount calculated by the authority as its council tax base for the principal area.

(3) The formula is—

$$D \times E$$

where—

D is the basic amount of council tax calculated by the authority under regulation 18 for each part of the principal area; and

E is the amount calculated by the authority as its council tax base for that part.

Definition of “lower amount”

14.—(1) In this Part, “lower amount”, in relation to a predecessor area other than the principal area or a part of that area and a financial year (“the relevant year”), means the amount calculated by applying the formula—

$$HA - F$$

where—

HA is the higher amount for the relevant year and the reorganised area of which the predecessor area is a part, and

F is the amount calculated by applying the formula in paragraph (2).

(2) The formula is—

$$G - H$$

where—

G is—

- (a) if the relevant year is the first year, the preceding year council tax for the principal area,
- (b) if the relevant year is any financial year after the first year, the higher amount for the financial year preceding the relevant year; and

H is—

- (a) if the relevant year is the first year, the preceding year council tax for the predecessor area,
- (b) if the relevant year is any financial year after the first year, the relevant amount for the predecessor area or the part of that area for the financial year preceding the relevant year.

(3) In the definition of item H in paragraph (2), “relevant amount” means—

- (a) if no special items relate to any part of the predecessor area, the basic amount of council tax calculated under regulation 20,
- (b) if one or more special items relate to the whole of the predecessor area, the basic amount of council tax calculated under regulation 21 less the aggregate of those special items,
- (c) if one or more special items relate to a part only of the predecessor area—
 - (i) for any part of the predecessor area to which no special items relate, the basic amount of council tax calculated under regulation 22(2)(a), or
 - (ii) for any part of that area to which one or more special items relate, the basic amount of council tax calculated under regulation 22(2)(b) less the aggregate of those special items.

CHAPTER 2

EQUALISATION OF COUNCIL TAX: GENERAL

Different basic amounts of council tax for the predecessor areas

15.—(1) In order to equalise more equitably the amounts of council tax payable in respect of dwellings situated in the predecessor areas of a reorganised area—

- (a) the relevant authority may determine that it will calculate basic amounts of council tax for the predecessor areas in accordance with regulations 16 to 22 for the first year; and
- (b) the single-tier council may determine that it will calculate basic amounts of council tax for the principal area and any predecessor areas other than the principal area in accordance with regulations 16 to 22 for any of the following financial years—
 - (i) the second year,
 - (ii) the third year,
 - (iii) the fourth year,
 - (iv) the fifth year.

(2) But—

- (a) a determination may not be made under paragraph (1) for a financial year if the appropriate authority has already made calculations under sections 32 to 36 of the 1992 Act for that year, and
- (b) a determination may only be made under paragraph (1)(b) if a determination was made by an appropriate authority under paragraph (1) for the financial year preceding that year.

(3) Any determination under paragraph (1) for a year must be made before 11th March in the financial year preceding that year, but a determination is not invalid merely because it is made after that date.

(4) Regulations 16 to 22 shall apply in relation to a financial year if an appropriate authority has made a determination under paragraph (1) for that year.

(5) Where regulations 16 to 22 apply as mentioned in paragraph (4), the enactments referred to in paragraph (6) shall have effect in relation to a reorganised area with the modifications specified in Schedule 2 to these Regulations.

(6) The enactments are—

- (a) the 1992 Act,
- (b) the Council Tax Base Regulations, and
- (c) the Local Authorities (Calculation of Council Tax Base) (Supply of Information) Regulations 1992(13).

Limitation on council tax requirement

16.—(1) In relation to a financial year referred to in regulation 15(4), the aggregate of the amounts calculated by applying the formula in paragraph (2) must not be greater than the amount calculated by applying the formula—

$$I \times T$$

where—

I is the uniform amount of council tax; and

T is item T in section 33(1) of the 1992 Act as modified by paragraph 2 of Schedule 2 to these Regulations.

(2) The formula first referred to paragraph (1) is—

$$J \times K$$

where—

J is the basic amount of council tax calculated by the appropriate authority under this Part for each part of its area; and

K is the amount calculated by the authority as its council tax base for that part.

CHAPTER 3

CALCULATION OF BASIC AMOUNT OF COUNCIL TAX: PRINCIPAL AREA

Calculation of basic amount of council tax for principal area: no special items or special items relating to the whole of the principal area

17.—(1) This regulation applies in relation to the principal area if—

- (a) no special items relate to any part of the area, or
- (b) one or more special items relate to the whole of the area.

(2) The basic amount of council tax for the area must be more than the uniform amount of council tax.

(13) [S.I. 1992/2904](#), to which there are amendments not relevant to these Regulations.

Calculation of basic amount of council tax for principal area: special items relating to part only of the principal area

18.—(1) This regulation applies in relation to the principal area if one or more special items relate to a part only of that area.

(2) The appropriate authority must calculate different basic amounts of council tax—

- (a) for any part of the principal area to which no special items relate, and
- (b) for any part of that area to which one or more special items relate.

(3) The amount calculated under paragraph (2) for each part of the principal area must be more than the uniform amount of council tax.

CHAPTER 4

CALCULATION OF BASIC AMOUNT OF COUNCIL TAX:
PREDECESSOR AREAS OTHER THAN THE PRINCIPAL AREA

Calculation of basic amounts of council tax: calculation for predecessor area other than principal area

19.—(1) The appropriate authority's basic amount of council tax for a predecessor area other than the principal area must be calculated in accordance with—

- (a) regulation 20,
- (b) regulation 21, or
- (c) regulation 22.

(2) For at least one of the predecessor areas the appropriate authority must calculate its basic amount of council tax—

- (a) under regulation 20(2)(b);
- (b) under regulation 21 in such a way that the basic amount of council tax for the area is not more than the higher amount by an amount equal to the aggregate of the special items that relate to the area; or
- (c) under regulation 22 in such a way that the amount calculated by applying the formula in paragraph (6) of that regulation is less than the higher amount.

Calculation for predecessor area other than principal area: no special items relating to the area

20.—(1) This regulation applies in relation to a predecessor area other than the principal area if no special items relate to any part of that area.

(2) The basic amount of council tax for the area must be—

- (a) equal to the higher amount; or
- (b) (i) less than the higher amount, and
(ii) more than the lower amount for the area.

Calculation for predecessor area other than principal area: special items relating to the whole of the area

21.—(1) This regulation applies in relation to a predecessor area other than the principal area if one or more special items relate to the whole of that area.

(2) The basic amount of council tax for the area—

- (a) must be more than the amount calculated by applying the formula in paragraph (3); and
 - (b) may be more than the higher amount, but only by an amount that is less than or equal to the aggregate of the special items that relate to the area.
- (3) The formula is—

$$LA + M$$

where—

LA is the lower amount for the predecessor area; and

M is the aggregate of the special items that relate to that area.

Calculation for predecessor area other than principal area: special items relating to part only of the area

22.—(1) This regulation applies in relation to a predecessor area other than the principal area if one or more special items relate to a part only of that area.

(2) The authority must calculate different basic amounts of council tax—

- (a) for any part of the predecessor area to which no special items relate, and
- (b) for any part of the area to which one or more special items relate.

(3) The amount calculated under paragraph (2)(a) for a part of the predecessor area must be more than the lower amount for that part.

(4) The amount calculated under paragraph (2)(b) for a part of the predecessor area must be more than the amount calculated by applying the formula—

$$LA + N$$

where—

LA is the lower amount for the part; and

N is the aggregate of the special items that relate to that part.

(5) The amount calculated by applying the formula in paragraph (6) must be less than or equal to the higher amount.

(6) The formula is—

$$\frac{(P - Q)}{R}$$

where—

P is the aggregate of the amounts calculated by applying the formula in paragraph (7);

Q is the aggregate of the special items which relate to the predecessor area; and

R is the amount calculated by the authority as its council tax base for the predecessor area.

(7) The formula is—

$$S \times U$$

where—

S is the basic amount of council tax calculated by the authority under paragraph (2) for each part of the predecessor area; and

U is the amount calculated by the authority as its council tax base for that part.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Communities and Local Government

20th November 2008

John Healey
Minister of State
Department for Communities and Local
Government

SCHEDULE 1

Regulation 5

PROCEDURE FOR EXERCISE BY PREPARING COUNCILS OF CERTAIN FUNCTIONS RELATING TO COUNCIL TAX

Application of this Schedule

1.—(1) This Schedule applies where by virtue of regulation 4(3) actions are the responsibility of an Implementation Executive.

(2) This Schedule has effect notwithstanding any contrary provision in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000⁽¹⁴⁾ or in the standing orders of the preparing council.

(3) Paragraphs 3 to 7 do not apply in relation to any calculations (whether originally or by way of substitute) made under sections 52I and 52T of the 1992 Act⁽¹⁵⁾.

Interpretation

2. In this Schedule—

“relevant provisions” means—

- (a) any of sections 32 to 37 of the 1992 Act,
- (b) any of those sections as modified by Schedule 2 to these Regulations,
- (c) any of regulations 13, 14, 16 to 18, and 20 to 22 of these Regulations; and

“specified period” means the period specified by the authority under paragraph 3(2)(b)(ii).

Authority’s objections to estimates submitted by the Implementation Executive

3.—(1) This paragraph applies where—

(a) the Implementation Executive submits to the authority in relation to the first year—

- (i) estimates of the amounts aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of the relevant provisions,
- (ii) estimates of other amounts to be used for the purposes of such a calculation, or
- (iii) estimates of such a calculation; and

(b) following consideration of the estimates the authority objects to any of them.

(2) Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the relevant provisions, it must—

- (a) notify the Implementation Executive of its objections; and
- (b) require the Executive to reconsider the estimates—
 - (i) in accordance with the authority’s requirements, and
 - (ii) within such period as is specified by the authority, being a period of at least five working days beginning on the day on which the Implementation Executive receives the notification under paragraph (a).

⁽¹⁴⁾ S.I. 2000/2853, to which there are amendments not relevant to these Regulations.

⁽¹⁵⁾ Sections 52I and 52T were inserted into the 1992 Act by paragraph 1 of Schedule 1 to the Local Government Act 1999 (c.27).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Reconsideration of estimates by the Implementation Executive

4. Where an Implementation Executive receives a notification under paragraph 3(2), within the specified period it must—

- (a) submit to the authority—
 - (i) revised estimates prepared by the Executive in accordance with the authority’s requirements, and
 - (ii) an explanation of the revised estimates; or
- (b) notify the authority of—
 - (i) any disagreement that the Executive has with any of the authority’s objections, and
 - (ii) the Executive’s reasons for the disagreement.

Duty of authority to take the Implementation Executive’s response into account

5. When making calculations (whether originally or by way of substitute) in accordance with any of the relevant provisions, the authority must take into account—

- (a) any revised estimates submitted in accordance with paragraph 4(a) and the Implementation Executive’s explanation of those estimates; or
- (b) any disagreement notified in accordance with paragraph 4(b) and the Executive’s reasons for the disagreement.

Authority’s decision not to use the Implementation Executive’s estimates

6.—(1) The authority may not use estimates which differ from those submitted by the Implementation Executive unless at least two-thirds of the members of the authority present at a meeting of the authority of which notice has been given as mentioned in sub-paragraph (2) vote in favour of the motion that different estimates be used for the purposes of making a calculation (whether originally or by way of substitute) in accordance with any of the relevant provisions.

(2) At least three clear days’ notice must be given to all members of the authority of any meeting at which a vote is to be taken on a motion of the description in sub-paragraph (1); and the notice must set out the terms of the motion.

SCHEDULE 2

Regulation 15(5) and (6)

CALCULATION OF COUNCIL TAX: MODIFICATIONS TO THE LOCAL GOVERNMENT FINANCE ACT 1992 AND CERTAIN SECONDARY LEGISLATION

The Local Government Finance Act 1992

Section 30 of the Local Government Finance Act 1992

- 1. In section 30 (amounts for different categories of dwelling)—
 - (a) in subsection (2)(a), for “32 to 36 below” substitute “32 and 36 below and Part 4 of the 2008 Regulations”;
 - (b) in subsection (4), for “32 to 36 below” substitute “32 and 36 below and Part 4 of the 2008 Regulations”; and
 - (c) in subsection (8), at the end insert “and Part 4 of the 2008 Regulations”.

Section 33 of the Local Government Finance Act 1992

2. In the heading to section 33 (calculation of basic amount of tax) and in subsection (1)(16), for each occurrence of “basic” substitute “uniform”.

Section 34 of the Local Government Finance Act 1992

3. Omit section 34 (additional calculations where special items relate to part only of area).

Section 36 of the Local Government Finance Act 1992

4. In section 36 (calculation of tax for different valuation bands)—

(a) in subsection (1), for the definition of item A substitute—

“A is the amount calculated (or last calculated) by the billing authority for that year under any of regulations 17(2), 18(2), 20(2), 21(2) or 22(2) of the 2008 Regulations in relation to that category of dwellings;” and

(b) in subsection (2), for “section 34 above” substitute “Part 4 of the 2008 Regulations”.

Section 37 of the Local Government Finance Act 1992

5. In section 37 (substitute calculations)—

(a) in subsection (1)—

(i) for “32 to 36 above” substitute “32 and 36 above and Part 4 of the 2008 Regulations”, and

(ii) for “those sections” substitute “those provisions”;

(b) in subsection (2)(a), for “section 33(1) or 34(2) or (3) above” substitute “Part 4 of the 2008 Regulations”;

(c) for subsection (3) substitute—

“(3) In making the substitute calculations, the billing authority must use any amount determined in the previous calculations—

(a) for item P or T in section 33(1) above, and

(b) as the council tax base for any part of the authority’s area.”; and

(d) in subsection (6), for “32 to 36 above” substitute “32 or 36 above, or Part 4 of the 2008 Regulations”.

Section 52I of the Local Government Finance Act 1992

6. In section 52I (duty of a designated billing authority)—

(a) in subsection (1), for “32 to 36 above” substitute “32 and 36 above and Part 4 of the 2008 Regulations”;

(b) in subsection (2)(b), for “section 33(1) or 34(2) or (3) above” substitute “Part 4 of the 2008 Regulations”; and

(c) for subsection (4) substitute—

“(4) In making the substitute calculations, the billing authority must use any amount determined in the previous calculations—

(a) for item P or T in section 33(1), and

(16) Section 33(1) was amended by paragraph 5 of Schedule 12 to the Local Government (Wales) Act 1994, [S.I. 1994/246](#), [S.I. 1995/234](#) and in relation to the financial year beginning on 1st April 2008 by [S.I. 2008/227](#).

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(b) as the council tax base for any part of the authority's area.”.

Section 52T of the Local Government Finance Act 1992

7. In section 52T (duty of a designated billing authority)—
- (a) in subsections (2) and (3), for each occurrence of “32 to 36 above” substitute “32 and 36 above and Part 4 of the 2008 Regulations”;
 - (b) in subsection (4)(b), for “section 33(1) or 34(2) or (3) above” substitute “Part 4 of the 2008 Regulations”; and
 - (c) for subsection (6), substitute—
 - “(6) In making the substitute calculations, the billing authority must use any amount determined in the previous calculations—
 - (a) for item P or T in section 33(1), and
 - (b) as the council tax base for any part of the authority's area.”.

Section 66 of the Local Government Finance Act 1992

8. In section 66 (judicial review)—
- (a) in subsection (2)(c)(17), after “above” insert “, or Part 4 of the 2008 Regulations”; and
 - (b) in subsection (2)(d), after “Part” insert “and under Part 4 of the 2008 Regulations”.

Section 67 of the Local Government Finance Act 1992

9. In section 67 (functions to be discharged only by authority), omit paragraph (b) of subsection (2A)(18).

Section 69 of the Local Government Finance Act 1992

10. In section 69 (interpretation), in subsection (1), before the definition of “additional grant” insert—
- ““the 2008 Regulations” mean the Local Government (Structural Changes) (Finance) Regulations 2008;”.

The Local Authorities (Calculation of Council Tax Base) Regulations 1992

Regulation 1 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992

11. In regulation 1 (citation, commencement and interpretation), in paragraph (3), before the definition of “a relevant percentage” insert—
- ““predecessor area” has the same meaning as in the Local Government (Structural Changes) (Finance) Regulations 2008;
- “principal area” has the same meaning as in the Local Government (Structural Changes) (Finance) Regulations 2008; and”.

Regulation 6 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992

12. In regulation 6 (calculation of billing authority's council tax base for a part of its area)—

(17) Section 66(2)(c) was amended by paragraph 6 of Schedule 1 to the Local Government Act 1999 (c.27).

(18) Section 67(2A) was inserted by section 84 of the Local Government Act 2003 (c.26).

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- (a) in paragraph (1)—
 - (i) omit “for the purposes of item TP in section 34(3)”; and
 - (ii) after “for a part of its area” insert “(including the principal area and any predecessor area other than the principal area)”;
- (b) in paragraph 2(d)(ii)(aa), for “amount of item TP in section 34(3)” substitute “tax base for a part of its area”; and
- (c) in paragraph 2(d)(ii)(bb), for the words from “relevant” to the end substitute “tax base for the part of its area for the year”.

Regulation 7 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992

13. In regulation 7 (calculation of council tax base for the purposes of a major precepting authority), in paragraph (2)—

- (a) for “for the purposes of item TP in section 34(3)” substitute “by the billing authority under that regulation”, and
- (b) for the words from “the calculation” to the end substitute “that calculation”.

The Local Authorities (Calculation of Council Tax Base) (Supply of Information) Regulations 1992

Regulation 4 of the Local Authorities (Calculation of Council Tax Base) (Supply of Information) Regulations 1992

14. In regulation 4 (supply of information to local precepting authorities), in paragraph (2)(a), for “for item TP in section 34(3) of the Act” substitute “as its council tax base”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) provides for the establishment of a single tier of local government for areas in England. There is a single tier of local government for an area if there is either a county council and no district councils for that area, or a district council and no county council for that area (section 1(2) of the 2007 Act). Where the Secretary of State has received a proposal or a recommendation that there should be a single tier of local government for an area, the Secretary of State may make an order to implement the proposal or recommendation with or without modification.

These Regulations make incidental, consequential, transitional and supplementary provision of general application in relation to the exercise of functions under the Local Government Finance Act 1988 (“the 1988 Act”) and the Local Government Finance Act 1992 (“the 1992 Act”) by authorities for the purposes of, and in consequence of, orders made by the Secretary of State under section 7 of the 2007 Act. Section 14(3) of the 2007 Act provides for these Regulations to have effect subject to any provision included in such an order.

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Part 1 of these Regulations concerns general matters, including citation and commencement (regulation 1) and interpretation (regulation 2).

Part 2 of these Regulations concerns, in particular, responsibility for functions exercised under the 1988 Act and under Part 4 of these Regulations. Functions under the 1988 Act are the responsibility of the shadow executive or the relevant executive. Functions under Part 4 of these Regulations are the responsibility of the council, although certain actions related to those functions are the responsibility of the shadow executive or the relevant executive (see generally regulations 3 and 4).

Regulation 5 introduces Schedule 1, which specifies a procedure for the exercise by preparing councils of certain functions relating to council tax. The procedure applies where, by virtue of regulation 4(3), actions are the responsibility of an Implementation Executive.

Part 3 of these Regulations concerns the exercise of functions under the 1988 and 1992 Acts. Regulation 7 makes provision for certain county councils to be billing authorities for the purposes of Part 1 of the 1992 Act. Regulation 8 makes provision for the exercise of certain functions under the 1988 and 1992 Acts before and after the reorganisation date, whilst regulation 9 concerns the continuity of functions under those Acts. Regulations 10 and 11 make provision in relation to a single-tier council's valuation and local rating lists. In particular, regulation 11 enables each of those lists to be amalgamated into a single document at any time after the reorganisation date.

Part 4 of these Regulations concerns the equalisation of council tax. In the absence of any alternative provision, the 1992 Act would require a billing authority to set a single basic amount of council tax under section 33(1) of the 1992 Act for a reorganised area, subject only to the calculations in section 34 of that Act where special items relate to a part only of that area. In order to enable a billing authority to equalise more equitably the amounts of council tax payable in respect of dwellings in the predecessor areas of a reorganised area, Part 4 enables such an authority to calculate different basic amounts of council tax for those predecessor areas. The term "predecessor area" is defined in regulation 12(1).

Regulation 15 enables a "relevant authority" (defined in regulation 2) in relation to the first year, and a single-tier council in relation to the second to the fifth years, to determine that different basic amounts of council tax will be calculated for "the principal area" (defined in regulation 12(1)) and for predecessor areas other than the principal area. A determination under regulation 15 must be made before 11th March in the financial year preceding the financial year for which the determination is made (regulation 15(3)). A determination under regulation 15 can also only be made for a financial year after the first year if a determination was made for the preceding financial year, and a determination cannot be made for a financial year if calculations have already been made for that year under sections 32 to 36 of the 1992 Act (regulation 15(2)). This is to ensure that, once the basic amounts of council tax in the predecessor areas have been equalised, the calculations in the 1992 Act apply thereafter in an unmodified form.

Regulation 15(5) and (6) introduces Schedule 2, which modifies certain provisions of the 1992 Act, the Local Authorities (Calculation of Council Tax Base) Regulations 1992 and the Local Authorities (Calculation of Council Tax Base) (Supply of Information) Regulations 1992. These modifications apply when regulations 16 to 22 come into play as mentioned in regulation 15(4). Where a determination has been made under regulation 15 in relation to a reorganised area and a financial year, these modifications ensure that the billing authority is required to calculate the "uniform amount of council tax" (defined in regulation 12(1)), that the basic amounts of council tax calculated under Part 4 of these Regulations are appropriately recognised under the 1992 Act, and that amounts of council tax base are appropriately calculated under Part 4 of these Regulations.

Where a determination under regulation 15 has been made for a financial year, the basic amount of council tax for the principal area must be calculated in accordance with regulation 17 or 18 and the basic amount of council tax for a predecessor area other than the principal area must be calculated in accordance with regulation 20, 21 or 22.

The rules governing the calculation of the basic amount of council tax for the principal area are expressed by reference to the uniform amount of council tax, whilst those governing the calculation of the basic amount of council for a predecessor area other than the principal area are expressed by reference to the higher and the lower amounts. The “higher amount” and “lower amount” are defined in regulations 13 and 14 respectively.

Regulation 16 places a limit on an authority’s council tax requirement as calculated under Part 4 of these Regulations and the 1992 Act as modified by Schedule 2 to these Regulations. The regulation ensures that this amount cannot be greater than the authority’s council tax requirement as calculated under the 1992 Act in an unmodified form.

Regulations 17 to 22 and Schedules 1 and 2 are discussed above.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.